

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

John Hamilton Smith, Special Referee

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Case No.: 2010-CP-40-8943R  
Appellate Case No. 2013-001067

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RECEIVED

JUN 21 2013

S.C. Supreme Court

Columbia Venture, LLC,.....Appellant,

v.

Richland County,.....Respondent.

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**APPELLANT'S MOTION TO EXCEED PAGE LIMITATIONS**

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Appellant, Columbia Venture, LLC, hereby moves pursuant to Rule 240, SCACR to exceed the page limitations in Rule 208(b)(5), SCACR for its Initial Brief in this appeal.

This action brought by Columbia Venture against Respondent, Richland County, seeks to recover just compensation and damages for an alleged regulatory taking of Columbia Venture's approximately 4,400 acre property adjacent to the Congaree River in Richland County, South Carolina ("Property"). The alleged taking arises from the County's formal adoption on February 20, 2002, of a new Flood Insurance Rate Map ("FIRM"), that for the first time placed approximately 70% of the Property within a regulatory floodway. Recently amended County ordinances in effect on that date prohibited Columbia Venture (1) from placing any economically productive structures

within the newly expanded regulatory floodway and (2) from improving the existing system of levees protecting its Property from flooding. Richland County's actions eliminated Columbia Venture's extensive plans to develop its Property as a mixed use residential and commercial development behind upgraded and certified levees, resulting in massive damages to Columbia Venture.

The regulatory takings analysis required by applicable precedents of this Court and the United States Supreme Court, is complex, both factually and legally. In this case, those precedents include: *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978); *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982); *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992); *Dunes West Golf Club, LLC v. Town of Mount Pleasant*, 401 S.C. 290; 737 S.E.2d 601 (2013); and *Byrd v. City of Hartsville*, 365 S.C. 650, 620 S.E.2d 76 (2005), and numerous others.

This appeal focuses on whether the trial court erred in determining there was not a taking. This determination raises a question of law for the Court. *Dunes W. Golf Club, LLC v. Town of Mount Pleasant*, 401 S.C. 280, 314, 737 S.E.2d 601, 619 (2013); *Carolina Chloride, Inc. v. Richland County*, 394 S.C. 154, 171, 714 S.E.2d 869, 877 (2011) ("In an inverse condemnation case, the trial judge will determine whether a claim has been established."); *Ex Parte Brown*, 393 S.C. 214, 224, 711 S.E.2d 899, 904 (2011) ("The question of a taking is one of law."). As such, this Court's review is *de novo*. *Town of Summerville v. City of N. Charleston*, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008).

Columbia Venture's claims also involve, but do not challenge, either directly or indirectly, the complex and technical regulatory scheme under the National Flood

Insurance Act, *see generally* 42 U.S.C. § 4001 *et seq.*, and the implementing regulations of the National Flood Insurance Program, *see generally* 44 C.F.R. § 59.1 *et seq.*

During the course of the non-jury trial, the court heard and considered the testimony of sixteen witnesses over a period of three weeks, and received and considered a total of 355 trial exhibits, designated deposition testimony of five witnesses, and 139 designated deposition exhibits. The trial court record exceeds 10,000 pages of exhibits and testimony, and the various orders on appeal are lengthy and detailed, totaling 89 pages.

Therefore, because of the voluminous trial record and lengthy orders on appeal, the complex factual and legal analysis required for a regulatory takings claim, the *de novo* standard of review, and the significant damages and policy issues at stake in this appeal, Columbia Venture respectfully requests that it be allowed to file an Initial Brief not to exceed 115 pages. Columbia Venture also respectfully requests that all deadlines be stayed pending a ruling on this motion.

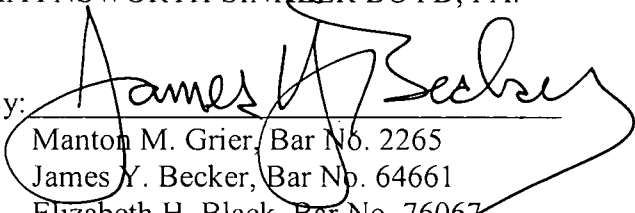
The undersigned counsel has been authorized by counsel for the Respondent to represent to this Court that the Respondent does not object to this motion.

*[signature on following page]*

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that I caused a copy of the foregoing Appellant's Motion to Exceed Page Limitations to be served on the following individuals by depositing a copy of the same in the United States Mail, first class, postage prepaid, and addressed as follows:

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June 21, 2013

  
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